

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of R.L. BELCASTRO, Minor.

UNPUBLISHED
February 20, 2014

Nos. 317337, 317343
St. Clair Circuit Court
Family Division
LC No. 12-000001-NA

Before: GLEICHER, P.J., and SAAD and FORT HOOD, JJ.

PER CURIAM.

In these consolidated appeals, respondent mother and respondent father appeal the order terminating parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). For the reasons stated below, we affirm.

I. STANDARD OF REVIEW

This Court reviews for clear error the trial court's decision that a statutory ground for termination was proven by clear and convincing evidence. *In re Olive/Metts Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012). "A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011). In reviewing the trial court's findings of fact, this Court gives due regard to the special opportunity of the trial court to judge the credibility of witnesses. *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005).

II. ANALYSIS

A court may terminate a respondent's parental rights if one or more of the statutory grounds for termination listed in MCL 712A.19b(3) are proven by clear and convincing evidence. *Olive/Metts*, 297 Mich App at 40. Only one statutory ground for termination need be established. *Id.* at 41. Here, the trial court terminated parental rights of both respondents pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).

A. MCL 712A.19B(3)(C)(I)

Pursuant to MCL 712A.19b(3)(c)(i), the court may terminate parental rights to a child if the court finds by clear and convincing evidence:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age. [MCL 712A.19b(3)(c)(i).]

The trial court did not clearly err when it terminated parental rights under this subsection of the statute. The record demonstrates that respondents are unable to understand basic child care concepts and ensure the safety and well-being of the child. In addition, respondent father possesses serious anger-management problems.

During the 15 months the child was in temporary custody, Community Mental Health ("CMH") and the Department of Human Services ("DHS") provided extensive services in order to help respondent mother learn basic parenting and child care skills. Despite these efforts, respondent mother did not show any improvement and continued to struggle with the same issues that brought the child into temporary custody. Although respondent mother was cooperative and eager to learn, she repeatedly needed constant prompting and guidance regarding basic parenting skills and had to be continually taught the same skills over and over again. Over the course of the program, she exhibited a poor level of retention of these parenting and child care skills. She also struggled with basic tasks such as remembering the age appropriate food for the child and how to engage the child. The mother seemed unable to focus on the child, and found diaper changing and bathing the child especially difficult. In sum, respondent mother showed no improvement in her ability to perform these basic child-care tasks over a period of approximately 15 months.

The respondent father possessed these same difficulties, and also had serious anger-management issues. He was very easily distracted by his own concerns and had a difficult time retaining the parenting and child care skills DHS taught him during the 15 months the child spent in temporary custody. Sadly, he generally relied on respondent mother to handle child-care tasks during visitation time, and did not take an independent role with the child unless prompted to do so.

Respondent father also showed aggression and an inability to control his anger in the presence of the child on several occasions during the course of temporary custody. On one occasion, he got upset and began yelling and swearing while the child was in his arms. In another incident, when he was told he had to purchase new baby monitors, he stormed out of the room and punched a wall. On a few occasions, he got frustrated with the child and yelled at her loudly. These instances of anger did not subside and continued to occur until termination. Although respondent father was not physically abusive toward the child or respondent mother, and he completed the court ordered anger management classes, it was clear that the anger issues continued to persist until the termination hearing.

Therefore, the trial court properly terminated parental rights pursuant to MCL 712A.19b(3)(c)(i), as "the conditions that led to the adjudication continue to exist and there is no

reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age." MCL 712A.19b(3)(c)(i).

B. MCL 712A.19B(3)(G)

Pursuant to MCL 712A.19b(3)(g), the court may terminate parental rights to a child if the court finds by clear and convincing evidence:

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age. [MCL 712A.19b(3)(g).]

The trial court did not clearly err when it terminated parental rights under this subsection of the statute. As noted, both respondents were unable to perform basic child-care tasks despite 15 months of education and facilitation efforts by DHS, and continued to struggle with the same issues that caused the state to place the child in temporary custody. Specifically, respondent mother needed guidance when the child started eating solid foods, and struggled to understand how much to feed the child and the appropriate temperature at which the food had to be served. She also struggled with selecting age-appropriate toys. Additionally, respondent mother failed to notice when the child's diaper needed changing and when the child had become ill.

Again, respondent father possessed a similar inability to perform basic child-care tasks. He also received constant guidance and education on basic child care and parenting skills during the 15 months the child was in temporary custody. However, he was unable to retain any of this information, and he continually needed constant prompting and repeated guidance.

Therefore, the trial court properly terminated parental rights pursuant to MCL 712A.19b(3)(g), as there is no reasonable expectation that either parent would be able to provide the proper care within a reasonable time given the child's age.

C. MCL 712A.19B(3)(J)

Pursuant to MCL 712A.19b(3)(j), the court may terminate parental rights to a child if the court finds by clear and convincing evidence:

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent. [MCL 712A.19b(3)(j).]

The trial court did not clearly err when it terminated parental rights under this subsection of the statute. Again, respondent mother was easily distracted and unable to devote her attention to the child. On one occasion, as respondent mother changed the child's diaper, she became distracted, and the foster care mother caught the child as she fell off the changing table. On another occasion, respondent mother had to be instructed to remove the pacifier from the child's mouth because the child was choking on her own spit. Respondent mother also failed to notice that the child was sick. On two occasions, the child came home from a parental visit with a high fever and respondent mother had not noticed her child was ill.

As noted, respondent father was also unable to perform basic child-care tasks, and he showed little interest in doing so. When he did engage in parental duties, he became very anxious in the absence of constant guidance. And he also exhibited serious anger-control problems during his attempts to care for the child.

Accordingly, the trial court properly terminated parental rights pursuant to MCL 712A.19b(3)(j), as there is a “reasonable likelihood, based on the conduct or capacity of the child’s parent, that the child will be harmed if he or she is returned to the home of the parent.” MCL 712A.19b(3)(j).

Affirmed.

/s/ Elizabeth L. Gleicher
/s/ Henry William Saad
/s/ Karen M. Fort Hood